REMARKS

In the Office Action, the Examiner rejected claims 1-4, 6-9, 16, 18, 19, 22-25, and 27 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,636,501 to Dispensa et al. (Dispensa) in view of U.S. Patent No. 6,392,997 B1 to Chen (Chen); and rejected claims 5, 10, and 20 under 35 U.S.C. §103(a) as unpatentable over Dispensa in view of Chen and U.S. Patent No. 5,751,799 to Mori (Mori).

By this amendment, Applicants amend claims 1-3, 6, 16, 18, 22, 23, 24, and 27 to more clearly define the features of those claims. As suggested by the Examiner, Applicants amended the independent claims to include "the special data packets designated to receive special handling when compared to at least one other data packet" to more clearly define the special data packets.

Claims 1-10, 16, 18-20, and 22-27 are currently pending.

Rejection of claims 1-4, 6-9, 16, 18, 19, 22-25, and 27 under 35 U.S.C. §103

The Examiner rejected claims 1-4, 6-9, 16, 18, 19, 22-25, and 27 under 35 U.S.C. §103(a) as unpatentable over Dispensa in view of Chen. Applicants respectfully traverse this rejection.

The key consideration in a proper rejection under 35 U.S.C. 103(a) is not whether the pending claims can be used as a "shopping list" for searching of the prior art for descriptions of features for assembly in a manner that is allegedly similar to the claimed subject matter, but rather whether the prior art references, each taken in their entirety for all that they would reasonably teach to one of ordinary skill in the art at the time of the instant invention, would have rendered the instantly claimed subject matter unpatentably obvious. Unfortunately, the rejections proffered by the Office in this matter have emphasized the first approach in assembling piecemeal elements from several references to create an alleged basis for *prima facie*

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obviousness while failing to properly consider whether the cited references, when taken as a whole, properly suggest the instantly claimed subject matter in a manner that would have caused one of ordinary skill in the art a the time of the present invention to have deemed it obvious.

Turning to claim 1, it recites the following features:

> a memory configured to store a pre-defined list of rules for detecting special data packets, the special data packets designated to receive special handling when compared to at least one other data packet;
> a detector configured to detect special data packets in a received plurality of data packets based on the pre-defined list of rules stored in said memory;
> a router configured to request instructions for the special data packets detected by said detector and route the special data packets in accordance with instructions received on request; and
> an internal entity configured to store instructions for the special data packets,
> wherein said router is configured to notify said internal entity of the detected special data packets and request instructions for the special data packets from said internal entity, and
> wherein a gateway node is configured to determine and update the instructions stored in said internal entity during active operations, wherein the gateway node is connectable to at least one further router located outside said apparatus.

Dispensa detects in a low speed module whether a frame is received from a high speed link or from a router dispatcher module via high speed switching means. Dispensa's local cache in the low speed module 23 duplicates routing table entries of the main router 22. Based on these routing table entries in the local cache of the low speed module 23, the frame is sent to a destination.
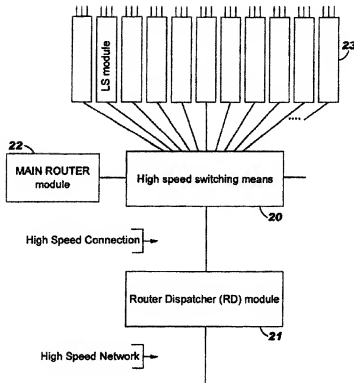
Dispensa at FIG. 2.

The Examiner appears to allege that the Dispensa's low speed module 23 constitutes the "router" of claim 1 and that Dispensa's local cache in the low speed module 23 constitutes the "internal entity" of claim 1. Office Action at page 3. Applicants disagree with the Examiner's allegations for at least the reason that Dispensa is completely silent with respect to a router that notifies a local cache of any type of detected special data packets.

Moreover, the Examiner appears to have improperly ignored the express language of claim 1.[1] Specifically, the Examiner has improperly ignored the following feature of claim 1: "wherein said router is configured to notify said internal entity of the detected special data

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[1] As noted in MPEP §2141.02 and §2143.03, a rejection under 35 U.S.C. requires that the Examiner consider whether the claimed subject matter as a whole would have been obvious to one of ordinary skill in the art at the time of invention. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Merely distilling the claimed subject matter down to the "gist" or "thrust" of an invention disregards this requirement. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

packets, the special data packets designated to receive special handling when compared to at least one other data packet." Indeed, <u>Dispensa</u> at best detects a special header within a frame, not whether packets are designated to receive special handling as recited in claim 1.

Therefore, <u>Dispensa</u> fails to disclose or suggest at least the following features of claim 1: "a memory configured to store a pre-defined list of rules for detecting special data packets, the special data packets designated to receive special handling when compared to at least one other data packet" and "wherein said router is configured to notify said internal entity of the detected special data packets and request instructions for the special data packets from said internal entity."

Moreover, although <u>Chen</u> discloses an inter-domain router walking through a routing table to find an optimal route when it joins a network and the inter-domain router sending messages to neighboring routers to update their routing tables, <u>Chen</u> fails to cure the aforementioned deficiency of <u>Dispensa</u>.

In view of the foregoing, claim 1 is allowable over <u>Dispensa</u> and <u>Chen</u>, whether these references are taken individually or in combination, and the rejection of claim 1 under 35 U.S.C. §103(a) should be withdrawn for this additional reason.

Regarding amended claim 2, Applicants submit that neither <u>Dispensa</u> nor <u>Chen</u> discloses or suggests "wherein the special handling of the special data packets is charged." Therefore, claim 2 is allowable over <u>Dispensa</u> and <u>Chen</u>, whether these references are taken individually or in combination, and the rejection of claim 2 under 35 U.S.C. §103(a) should be withdrawn for this additional reason.

Regarding amended claim 3, Applicants submit that neither <u>Dispensa</u> nor <u>Chen</u> discloses or suggests "wherein the memory, the detector, the router, and the internal memory are included

within the apparatus." Therefore, claim 3 is allowable over <u>Dispensa</u> and <u>Chen</u>, whether these references are taken individually or in combination, and the rejection of claim 3 under 35 U.S.C. §103(a) should be withdrawn for this additional reason.

Independent claims 6, 16, 18, 22, 23, 24, and 27, although of different scope, include features similar to those noted above with respect to claim 1. Claims 2-5 depend from claim 1 and include all of the features recited therein. For at least the reasons noted above with respect to claim 1, independent claims 6, 16, 18, 22, 23, 24, and 27 as well as claims 2-4, 7-9, 19, 25, and 26, at least by reason of their dependency, are allowable over <u>Dispensa</u> and <u>Chen</u>, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

Rejection of claims 5, 10, and 20 under 35 U.S.C. §103

The Examiner rejected claims 5, 10, and 20 under 35 U.S.C. §103(a) as unpatentable over <u>Dispensa</u> in view of <u>Chen</u> and <u>Mori</u>. Applicants respectfully traverse this rejection.

Claim 5 depends from claim 1, and includes all the features recited therein, including, among other things: "a memory configured to store a pre-defined list of rules for detecting special data packets, the special data packets designated to receive special handling when compared to at least one other data packet" and "wherein said router is configured to notify said internal entity of the detected special data packets and request instructions for the special data packets from said internal entity." While <u>Mori</u> discloses a method for performing a charging operation during data communication, <u>Mori</u> fails to cure the aforementioned deficiencies of <u>Dispensa</u> and <u>Chen</u>. Therefore, claim 5 is allowable over <u>Dispensa</u>, <u>Chen</u> and <u>Mori</u>, whether these references are taken individually or in combination, and the rejection of claim 5 under 35 U.S.C. §103(a) should be withdrawn.

Claims 10 and 20, although of different scope, include all the features noted above with respect to claim 1, by reason of their dependency on claims 8 and 18 respectively. Therefore, claims 10, and 20 are allowable over <u>Dispensa</u>, <u>Chen</u> and <u>Mori</u>, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.
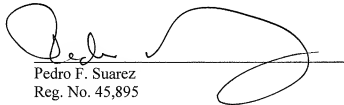
CONCLUSION

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

No fee is believed to be due, however Commissioner is hereby authorized to charge any fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 39700-524N01US/NC14828US. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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Pedro F. Suarez
Reg. No. 45,895

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130
Customer No. 64046
Tel.: 858/314-1540
Fax: 858/314-1501